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**Illinois Commerce Commission Report to the General Assembly: Experimental Programs Initiated by Electric Utilities Under Section 16-106 of the Electric Service Customer Choice and Rate Relief Law of 1997**

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The Illinois Commerce Commission

## Executive Summary

The Illinois Commerce Commission ("Commission") hereby submits this Report to the General Assembly regarding the five experimental programs initiated by Commonwealth Edison Company ("ComEd") and the two programs initiated by Illinois Power Company ("IPC") during 1997 and 1998 pursuant to Section 16-106 of the Electric Service Customer Choice and Rate Relief Law of 1997, 220 ILCS 5/16-106 ("Customer Choice Law"). The Report is submitted in response to the directive in Section 16-106 that the Commission "review and report annually the progress, participation and effects of such experiments to the General Assembly".

The Commission has concluded the following about the programs initiated by ComEd and IPC:

- The two electric utilities have taken a broad view of the type of experimental programs that may be offered under Section 16-106.
- Two types of programs have been implemented: programs targeted at selected customer groups and programs initiated in response to potential summer reliability problems.
- Total expenditures associated with the five programs implemented by ComEd are approximately $16.2 million.[1]
- Total expenditures associated with the two programs implemented by Illinois Power Company are approximately $6.2 million.
- Expenditures associated with the experiments should not have a direct effect on customer rates because of the provision in the Customer Choice Law that requires the Commission when setting base electric rates to exclude the costs and revenues associated with Section 16-106 programs.
- Some of the ongoing programs may terminate or have reduced participation as soon as October 1, 1999, when some of the customers participating in the programs become eligible to choose new suppliers.
- Electric utilities probably will not implement experimental load curtailment programs in the future unless such programs are needed to preserve reliability.
- For some of the ComEd programs, the value of the information from the programs obtained is lower than the benefits that will be obtained from the programs.
- Some of the ComEd programs may discourage the entrance of new suppliers to the Illinois electric market.
- Customers in retail businesses who do not obtain the discounts associated with the experimental programs could face a competitive disadvantage relative to the

[1] This amount does not include the approximately $5 million ComEd will spend in 1998 in lighting efficiency programs or the amount ComEd spent on the Rider CB experimental program, the precursor to one of ComEd's Section 16-106 programs.

customers who receive the discounts; while this advantage is likely to be relatively small in the near-term, the advantage could grow over time.

The Commission believes that the pricing flexibility offered by Section 16-106 may provide incumbent utilities the opportunity to discriminate in the provision of regulated monopoly services, such as transmission and distribution services, by discounting prices or providing those services under terms and conditions that unduly discriminate against alternative suppliers and their customers taking delivery services. The Commission, therefore, recommends that the General Assembly consider requiring utilities that offer Section 16-106 programs to customers or customer classes eligible for "delivery services," to provide the transmission and distribution portion of such programs under the same terms, conditions and rates as the applicable delivery services tariff.

The Commission specifically notes that this recommendation applies solely to programs under Section 16-106 as currently understood by the Commission and must not be interpreted to reflect any determination by the Commission about its authority to require a utility to provide bundled energy services to its own customers using the applicable delivery services tariffs.

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## I. Introduction

The "Electric Service Customer Choice and Rate Relief Law of 1997" ("Customer Choice Law"), enacted into law on December 17, 1997, made a number of significant changes to the existing Public Utilities Act ("Act"). Among the changes is new Section 16-106, which permits electric utilities to offer experimental programs at their discretion to a selected group of customers. According to Section 16-106, the programs offered under this Section of the Act may include experiments for the "provision or billing of services on a consolidated or aggregated basis, as well as other experimental programs." Section 16-106 also requires the Commission to report annually to the General Assembly the Commission's evaluation of the "progress, participation and effects" of these programs.

To date, only two electric utilities, Commonwealth Edison and Illinois Power Company, have undertaken experimental programs filed with the Commission pursuant to Section 16-106.[2] Of the five programs offered by ComEd, two of the programs are labeled as billing programs (the Consolidated Billing Experiment and the Affinity Group Experiment) and three are pricing programs (the Student Power 2000 Power Pricing Experiment and the Load Curtailment and Generated Energy Procurement Pricing Experiments I and II).

The billing programs were initiated soon after the Customer Choice Law became effective. These ongoing programs have the general purpose of assisting ComEd and certain customer groups in making a smooth transition to competitive electric markets.

The two load curtailment programs were implemented in response to the unprecedented increases in wholesale electricity prices at the end of June of this year. The purpose of these programs is to assist ComEd in maintaining system reliability during periods when the supply of wholesale power is either very low and/or prohibitively expensive. Since the price and supply of wholesale power soon returned to normal levels, and similar conditions did not occur during the balance of the summer, ComEd did not implement the procedures called for under the two curtailment programs.

The Student Power 2000 Power Pricing Experiment is meant to educate today's schoolchildren to become more informed about the energy choices they will make as adults. ComEd also believes that this program will also help it to gain insight into the value of educating customers about energy issues. The program has an anticipated three-year duration.

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[2]ComEd and IPC complied with Commission orders requiring the two utilities to provide information about the programs (Docket Nos. 98-0297 and 98-0585, respectively).

Total expenditures on the ComEd experimental programs are approximately $16.2 million.

IPC initiated one billing experiment (the Small Customer Conservation Appreciation Billing Experiment) and one pricing experiment (the Large Customer Electricity Conservation Experiment). The billing experiment is essentially a gesture of gratitude by IPC to its smaller-use customers for responding quickly to IPC's public appeals to reduce unnecessary electric consumption on "Conservation Days". The expenditures on this program totaled approximately $6.2 million.

The pricing experiment initiated by IPC is similar to the two load curtailment programs implemented by ComEd, and, like the ComEd programs, was developed in response to the unusual events of the week of June 22, 1998. Similar to ComEd's experience with its load curtailment programs, the procedures described in the statement filed with the Commission were not invoked. Thus, there were no expenditures associated with this program.

As required by Section 16-106, ComEd and IPC filed notices with the Commission containing statements describing each of the programs prior to implementation. The notices generally included the following information: Effective program dates; availability; general program purpose and objectives; and participation incentives (e.g., rate discounts), if any. The letters sent to the Commission accompanying each notice reflected the Companies' interpretation of Section 16-106 that an experimental program becomes effective upon the filing of the notice.

The balance of this Report describes in more detail the seven programs filed under Section 16-106. The Report also describes, as required by Section 16-106, the Commission's assessment of the progress, participation and effects of each of the programs. After each program description, a table is presented showing summary information about the program. In the Conclusion of the Report, the Commission offers general comments about issues related to Section 16-106 experimental programs.

## II. Section 16-106 of the Public Utilities Act

The authority provided electric utilities to offer certain types of experimental programs is stated in Section 16-106 as follows:

> Sec. 16-106. Billing experiments. During the mandatory transition period,[3] an electric utility may **at its discretion** conduct one or more experiments....(emphasis supplied)

[3]Section 16-102 states that the "mandatory transition period" will end on January 1, 2005.

Section 16-106 addresses the question of the examination of discrimination by stating that electric utilities may choose which customers are eligible for experimental programs (and which are not eligible), and that the Commission should allow the programs to proceed: [4]

> The offering of such a program by an electric utility to retail customers participating in the program, and the participation by those customers in the program, shall not create any right in any other retail customer or group of customers to participate in the same or a similar program. The Commission shall allow such experiments to go into effect upon the filing by the electric utility of a statement describing the program....

Section 16-106 makes clear, however, that the Commission retains its authority to approve experimental programs submitted to the Commission for approval under Sections of the Act other than Section 16-106:

> Nothing contained in this Section shall be deemed to prohibit the electric utility from offering, or the Commission from approving, experimental rates, tariffs and services in addition to those allowed under this Section.

It thus appears that the effect of Section 16-106 is to provide electric utilities that desire to implement experimental programs with a choice. Utilities may either (1) submit the program to the Commission for approval in the traditional manner; or, (2) implement the experimental program pursuant to Section 16-106.

Section 16-106 lists the type of experimental programs that may be offered by electric utilities. The experimental programs may include those

> ...for the provision or billing of services on a consolidated or aggregated basis, for the provision of real-time pricing, or other billing or pricing experiments, and may include experimental programs offered to groups of retail customers possessing common attributes as defined by the electric utility, such as the members of an organization that was established to serve a well-defined industry group, companies having multiple sites, or closely-located or affiliated buildings, provided that such groups exist for a purpose other than obtaining energy services and have been in existence for at least 10 years.

Finally, the Commission must inform the General Assembly about the programs filed under Section 16-106:

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[4] The Commission has not undertaken any formal investigation to determine whether the experimental programs are consistent with Section 16-106.

The Commission shall review and report annually the progress, participation and effects of such experiments to the General Assembly. Based upon its review, recommendations for modification of such experiments may be made by the Commission to the Illinois General Assembly.

## III. Programs offered by ComEd under Section 16-106

This Section of the Report provides information about the five experimental programs undertaken by ComEd under Section 16-106 during 1997-98.

### A. Consolidated Billing Experiment

#### 1. Program Summary

On December 30, 1997, shortly after the Customer Choice Law became effective, ComEd submitted a notice to the Commission describing its intention to implement the Consolidated Billing Experiment. The Consolidated Billing Experiment is effectively a continuation, under Section 16-106, of a Commission-approved program implemented by ComEd in 1996 called Rider CB that was terminated upon the filing of the Consolidated Billing Experiment. The customers who were taking service under Rider CB became eligible for the Consolidated Billing Experiment.

ComEd states in its filed statement that the program is designed to assist ComEd in developing systems and technologies that will allow for measuring and billing aggregated loads. An additional purpose is to gain experience with Automatic Meter Reading ("AMR") technologies. According to the filing, ComEd believes that these technologies will benefit customers in three ways. First, by facilitating the distribution of power and energy sold to customers by alternative suppliers. Second, by allowing ComEd to "treat a geographically dispersed customer with many separate locations as a single customer." Finally, ComEd anticipates that the program will have the ancillary benefit of encouraging improved energy management by participating customers. Through the design of the rates for service, customers can reduce their electric bills by decreasing their demand on ComEd's system during certain periods.

As noted above, the experimental program is offered to the same customers who were eligible for Rider CB. Customers for the Consolidated Billing Experiment are two customer subclasses within the commercial customer class. Specifically, eligible customers include businesses in retail trade that have at least five premises and a demand of at least 25 kilowatts ("kW"), with a total demand of 10 megawatts ("MW"), and school districts with at least three premises that have at least 25 kW of demand. School districts must have a total demand of at least 3 MW.

ComEd anticipates that participating customers will save about 5% on their electric costs. Customers may terminate participation in the program upon 30 days notice to ComEd.

### 2. Program Progress, Participation and Effects

The results of this program indicate that the program was well received by customers, as nearly all eligible customers became participants in the program.

In its Report to the Commission,[5] ComEd states that multi-site customer's value receiving a single bill consolidating the bills for each of their individual premises. ComEd states that it has found that participating customers have not reduced their coincident demands as expected. This finding may indicate that some customers may not make the effort required from consolidated billing programs to realize the maximum achievable savings on their electric bills when given an opportunity to do so.

The majority of the problems encountered and costs incurred by participating customers were associated with the installation and servicing of landline telephones needed for the AMR meters used in the program. As an alternative to the use of expensive landline telephones, ComEd has made efforts to use wireless cellular technology.

ComEd states in its Report that is has had some meter reading problems as well as data transfer and processing problems, particularly in landlord-tenant situations in which only one of the entities is a participant in the program.

ComEd states that there have been no adverse effects on reliability due to the program.

In the twenty months since the inception of Rider CB and the Consolidated Billing Experiment, ComEd has incurred a revenue shortfall (i.e., the revenue lost due to the discounted rates and unrecovered charges) of about $16.7 million.[6] Program costs for the experimental program alone are about ComEd $4.4 million.[7] In its Report, ComEd states that while the program has achieved benefits it is too early to determine whether the expenditures on the program are equal to the benefits that will ultimately be achieved.

In 1996, after Rider CB had been in effect for a few months, the Commission undertook an investigation of the program. In its investigation, the Commission posed several questions to ComEd, among which were questions relating to whether Rider CB is an "experiment" and whether Rider CB would elicit information of value to ComEd and to future open access customers. After hearing evidence from several parties about these questions, the Commission found that ComEd's responses to the questions were

[5] All citations of ComEd's "Report to the Commission" refer to the "ComEd Report on Pricing and Billing Experiments", which was filed with the Commission on September 1, 1998.
[6] ComEd filed a report with the Commission on August 4, 1998, describing its experience with the Rider CB experimental program.
[7] Program costs include revenue lost from the discounted rate as well as administrative costs.

satisfactory. In particular, the Commission found that "Rider CB is a lawful *experimental billing program.*"[8]

| CONSOLIDATED BILLING EXPERIMENT | | | | |
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| **Program Type / Effective Dates** | **Program Objectives** | **Participation Incentives** | **Program Results** | **Program Expenditures** |
| Consolidated Billing (replaced Rider CB) ; began 12/30/97, no ending date stated in filing. | Experiment with the billing and metering systems for customers under common ownership. | Expected bill reduction of 5%. | Participation from a total of 1,130 multi-site retail trade establishments and 230 school district sites[9]. Customer bill savings are about as projected. | Total ComEd expenditure of $4.4 million.[10] |

### B. Affinity Group Billing Experiment

#### 1. Program Summary

ComEd filed a notice with the Commission on 12/31/97 describing the Affinity Group Billing Experiment. The program is available to members of the Illinois Retail Merchants Association ("IRMA") only. According to the filing, as an incentive for participation program participants will receive a reduction in demand charges, which is expected to result in average annual electric savings of about 15%. Additionally, ComEd expects that the program will help IRMA and its members with preparation for the transition to competitive electric markets. ComEd anticipates that it will offer the program for an initial three-year term, unless the program length is changed upon agreement by the parties.

ComEd states that the program has several objectives: to learn about the potential for aggregating the electric loads of related and unrelated companies; to gather information that will assist program participants to make informed decisions about the procurement of the participants' electric supply; to identify energy efficiency measures for program participants; and, to analyze the value of the energy efficiency measures' usefulness in helping ComEd reduce customer load during periods of system emergencies. ComEd states that the IRMA membership, which includes both large and small single- and multiple-site companies, is well-suited for "exploring these objectives". Additionally, IRMA members will assist ComEd in understanding the needs of commercial customers in making the transition to competitive electric markets.

[8] Commission Order, Docket 96-0485, p. 34.
[9] One eligible school district is taking service under Rider GCB - Governmental Consolidated Billing, which, under Section 16-125A, ComEd is required to offer.
[10] The amount does not include the $16.7 million expenditure from the Rider CB program.

### 2. Program Progress, Participation and Effects

ComEd's Report to the Commission indicates that most of the eligible customers participated in the program. The Report states that the primary reason why customers are participating in the program is to reduce electric costs.

The data in the Report indicate that most of the majority of the eligible customers declining to participate in the program are single-site customers.

ComEd has spent about $11.3 million through the first five months of the program.

ComEd learned that there are three main reasons why eligible customers did not participate in the program. The single most important factor was the closure of many small businesses. Second, some potential participants believed that their low level of expenditures on electricity did not justify the level of effort required to save on electricity costs. Third, some customers were apparently wary of unspecified "undesirable consequences" if they participated in the program.

Since little customer participation is required to receive a substantial discount on electric bills, one implication from these findings is that there may be customers who simply are not interested in saving money on electricity costs.

ComEd states that it believes that the program has made a contribution to reliability, as IRMA members twice requested program participants to reduce their energy usage (one of the days was June 25). However, ComEd has not yet analyzed the data that will provide information about load curtailment. IRMA has also assisted ComEd in educating its members about how to energy usage without disrupting business.

ComEd has not fully analyzed the data it has collected on changes in participants' consumption patterns, so no conclusion can be drawn with respect to consumption.

The question of whether the discount to IRMA disrupts the competitiveness of the market in which IRMA members compete is difficult to answer, but probably depends on the length of the Affinity program, or, in other words, the duration of the availability of the rate reduction. Currently, according to ComEd's filed statement, the Affinity program has an initial three-year term. If the program does terminate after three years, the advantage gained by IRMA members receiving a discounted electric rate is probably not significant for most (but perhaps not all) of the markets in which IRMA members compete. According to the Census of Retail Trade,[11] electricity costs comprise only about 3.2% of operating costs for the average retail trade establishment. This means the advantage IRMA members have over customers not receiving a discounted electricity rate is, on average, about 0.5% (i.e., 0.032 * 0.15) of operating costs.

[11] Table 8, Census of Retail Trade, Bureau of the Census, U.S. Department of Commerce, 1992.

The longer the cost advantage persists, the more likely the competitive advantage gained through lower electricity costs will be detrimental to customers not receiving the discount. If the Affinity program exists for longer than three years, customers not receiving discounts will find it increasingly difficult to compete with IRMA members even though all commercial customers will be free to choose their electric suppliers within two years (by January 1, 2001), and thus be in a position to receive savings on their electric bills. According to Section 16-102 of the Customer Choice Law, the average savings for a customer choosing a new supplier is about 8% of the customer's current electric bill, an amount which will rise to about 10% by 2003. Such savings, while not insignificant, would be less than the 15% discount that IRMA members are currently receiving for participating in the Affinity program.

One of the benefits to ComEd from this program is the information that will be of use to ComEd when ComEd competes with other suppliers to sell electricity to commercial customers. Since such marketing information is valuable and difficult and costly to obtain, possession of this information could give ComEd an advantage over other suppliers in the future. It is doubtful, however, that this advantage would be sufficient to deter determined competitors from entering the Illinois market.

ComEd has nearly 300,000 commercial customers, the vast majority of whom are not eligible for the Affinity program. The Commission notes that the choice of customers for this program, while apparently permitted by Section 16-106, certainly creates the appearance of ComEd showing favoritism to a selected customer group.

| AFFINITY GROUP BILLING EXPERIMENT | | | | |
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| **Program Type / Effective Dates** | **Program Objectives** | **Participation Incentives** | **Program Results** | **Program Expenditures** |
| Billing program began 12/31/97 and has initial three year term. | Learn about load aggregation potential; develop educational material; identify energy efficiency measures. | Approximately 15% discount on electric bills. | Participation from 859 customers with a total of 4,797 premises. Customer savings are about as projected. | Total ComEd expenditure of $11.3 million (revenue shortfall plus program costs). |

## C. Student Power 2000 Pricing Experiment

### 1. Program Summary

The Student Power 2000 Pricing Experiment is available to the estimated 3,400 public and private schools in ComEd's services territory that offer courses for grade levels kindergarten through the twelfth grade. Schools with grade levels kindergarten through the fifth grade will conduct annual energy projects with their students. The students at schools with grade levels sixth through twelfth grade will conduct annual energy audits. With the assistance of teachers, the students at the higher-grade levels will develop energy plans to identify energy efficiency measures at the schools.

The notice filed with the Commission states that ComEd will establish an Advisory Board that will provide ComEd with insight as to how a specified market segment values energy efficiency measures. The interaction with the Advisory Board will also assist ComEd in developing new service offerings and programs.

Schools participating in the Student Power 2000 Pricing Experiment will receive a discount of 10% on their electric bills. Participating schools will also be eligible for low-interest loans to finance investments in energy efficiency projects.

The Student Power 2000 Pricing Experiment will be offered by ComEd for an initial three-year term.

**2. Program Progress, Participation and Effects**

In its Report to the Commission, ComEd states that is has spent approximately $553,000 on this program since the program's inception. While the 3,400 participating schools began to receive a 10% discount on electric rates in March 1998, actual implementation of the program only began with the commencement of the 1998-99 school year.

As of September 1, 1998, ComEd has received five applications for the Advisory Board. Since ComEd prefers that the Advisory Board should be composed of at least ten to fifteen members, it is still accepting applications for the Advisory Board.

ComEd encountered difficulty in "identifying, contacting, and developing relationships with eligible customers and participants." Additionally, it found that initial implementation of the program was difficult because of the need to establish a database containing participant names, addresses and other pertinent information.

There are limited potential competitive effects of this program. Obviously, grade schools do not compete against each other, as other commercial customers do. However, the schools participating in the program will be eligible in the near future to purchase electricity from new suppliers. Through this program ComEd will obtain information that will be useful to ComEd as it competes with other suppliers to sell electricity to the school districts.

| STUDENT POWER 2000 PRICING EXPERIMENT | | | | |
|---|---|---|---|---|
| Program Type / Effective Dates | Program Objectives | Participation Incentives | Program Results | Program Expenditures |
| Pricing program began 1/30/98, and has expected three-year duration. | Learn about schools' abilities to implement energy efficiency improvements. | 10% discount on electric bills. | 3,400 grade schools eligible began receiving rate discounts in March 1998; program began in 1998-99 school year. | ComEd total expenditure of $553,000 (revenue shortfall plus program costs). |

## D. Load Curtailment and Generated Energy Procurement Pricing Experiment I

### 1. Program Summary

On June 26, 1998, ComEd filed a notice of an experimental pricing program that ultimately had a life span of only one week. The program was implemented in response to the unusual rise in the price of wholesale power and reduced supply availability in the Midwest on June 25-26, 1998. The objective of the program was to determine the price at which customers would agree to curtail a portion of their electric load on short notice.

Programs such as this experiment are common in the electric utility industry and are called "interruptible", meaning that customers taking service under the program may be requested, usually during periods of peak demand, to reduce their load on the utility's system. Interruptible customers receive a credit on their electric bills in return for this inconvenience.

Like other utilities, ComEd has interruptible rates. In particular, ComEd has a rate called Rider VRS-Voluntary Resource Sharing, which it implemented with Commission approval in 1997. The payment for a reduction of consumption under this program is higher than the payment customers receive under Rider VRS.

### 2. Program Progress, Participation, and Effects

ComEd terminated the program on July 3, 1998, shortly after prices and supply availability returned to normal levels. Although ComEd was able to secure the commitment of customers to curtail about 117 MW of demand, it never actually called upon customers to curtail load during the seven days of the program's existence. Had ComEd implemented this program, the program would have contributed to the maintenance of system reliability during a critical period.

If an unexpected reliability problem appears next summer, it would be reasonable to expect that, other things the same, ComEd may use a program similar to this program to maintain reliability. Otherwise, the Commission does not expect ComEd to implement a Section 16-106 load curtailment program. [12]

In the longer-term, when other suppliers begin to serve the customers that were eligible for this program, ComEd will need to undertake other measures to maintain reliability or identify other customers to whom a load curtailment program could be offered.

The Commission does not believe that this program will have any significant long-term effects on competition, primarily because the discounts on electric rates from this program were applicable for only a short period.

| LOAD CURTAILMENT AND GENERATED ENERGY PROCUREMENT PRICING EXPERIMENT I | | | | |
|---|---|---|---|---|
| **Program Type / Effective Dates** | **Program Objectives** | **Participation Incentives** | **Program Results** | **Program Expenditures** |
| Pricing program began on 6/26/98 and ended 7/3/98. | Maintain system reliability; determine response to incentives to reduce load. | Market-based payment to reduce consumption on critical day. | 74 of 182 customers over 5 MW committed 117 MW, but program never used. | $0. |

### E. Load Curtailment and Generated Energy Procurement Pricing Experiment II

#### 1. Program Summary

On July 14, 1998, ComEd filed a statement with the Commission describing its plans to offer a second load curtailment program ("Load Curtailment and Generated Energy Procurement Pricing Experiment II"). The purpose of this program is similar to the purpose of the first load curtailment program, i.e., to maintain system reliability. This program, however, is targeted to a larger group of customers than ComEd's first load curtailment program. The customers eligible for this program are the following: (i) residential and general service customers; (ii) non-residential customers that have electric demand from 50 kW to 2,000 kW; (iii) non-residential customers that have electric demands of 2,000 or more kW; and (iv) municipalities and counties.

Payments for participating customers under the programs are as follows: (i) customer credits for each "controlled service interruption"; (ii) payment of $1 million into a fund ultimately benefiting all of ComEd's customers on each occasion ComEd announces an "Energy Alert"; (iii) payment of $1 per kW of reduced load to specified customers during curtailment periods; (iv) market-based payments to customers above 2 MW; and, (v) payment of $50,000 into a fund ultimately benefiting all of ComEd's customers on curtailment period in recognition of governmental efforts to conserve electricity on specified days.

[12] The same comment applies to all of the load curtailment programs described in this Report.

As part of the program, ComEd implemented two lighting efficiency programs. Under the "Compact Fluorescent Bulb Program", ComEd customers may receive, at no cost, high-efficiency fluorescent light bulbs from ComEd. The second lighting program, the "Lighting Rebate Program", is designed for commercial, industrial and municipal customers to conserve electricity through the installation of certain lamps and electronic ballasts.

The program ended on 12/31/98.

#### 2. Program Participation, Progress and Effects

ComEd did not implement the procedures in this program. Had ComEd implemented this program, the program would have contributed to the maintenance of system reliability during critical periods. The Commission does not believe that this program will have any significant long-term effects on competition, primarily because the discounts on electric rates from this program will be applicable for short periods only.

| LOAD CURTAILMENT AND GENERATED ENERGY PROCUREMENT PRICING EXPERIMENT II | | | | |
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| **Program Type / Effective Dates** | **Program Objectives** | **Participation Incentives** | **Program Results** | **Program Expenditures** |
| Pricing program began 7/14/98 and ends 12/31/98. | Maintain system reliability; Determine response to incentives to reduce load. | Various payments to reduce consumption on critical day; free light bulbs and rebates for lighting program customers. | Curtailment program: never used. Lighting programs: 150,000 customers receive one 20-watt light bulb. 165 of 1,550 eligible customers participating in Lighting Rebate Program. | $0 expenditure on load curtailment program; ComEd will spend up to $5 million during 1998 on the lighting programs. |

## IV. Programs offered by IPC under Section 16-106

This section of the Report describes the each of the two experimental programs undertaken by IPC under Section 16-106 during 1997-98.

### A. Small Customer Conservation Appreciation Billing Experiment

#### 1. Program Summary

During the week of June 22, 1998, IPC issued public appeals to its customers to reduce their electric consumption. IPC estimates that its customers responded to the appeals by decreasing the maximum load on IPC's system by approximately 250 MW. On July 22, 1998, to recognize customers' efforts to conserve electricity by taking such actions as turning off air conditioners for brief periods and reducing unnecessary lighting, IPC filed a billing experiment with the Commission for the purpose of providing a "financial benefit to its residential, small business, and municipal customers...for voluntary electricity conservation actions." An additional purpose of the experiment, according to the statement filed by IPC, is "to provide valuable information relative to research of customer loyalty in light of such requests such as those made earlier this summer."

IPC's residential, small business, and municipal customers received a 7.5% credit on their August 1998 bills. For residential customers, the 7.5% credit was in addition to the 15% rate reduction mandated by the Customer Choice Law. IPC notes that the 7.5% credit on August bills had the effect of moving the 15% rate reduction forward by two weeks.

### 2. Program Participation, Progress and Effects

The 7.5% credit was applied to August 1998 bills only. That is, the base rates in effect for the small municipal and commercial customers during and subsequent to the September 1998 billing cycle were the same as the rates in existence prior to the credit. The amount of revenue forgone by IPC because of the program is approximately $6.2 million. There are no discernible effects on competition because of the program.

| SMALL CUSTOMER CONSERVATION APPRECIATION BILLING EXPERIMENT | | | | |
|---|---|---|---|---|
| **Program Type / Effective Dates** | **Program Objectives** | **Participation Incentives** | **Program Results** | **Program Expenditures** |
| Pricing program began 7/22/98 and applied for August billing cycle only. | Appreciation for previous and future conservation efforts. | 7.5% discount on August 1998 bills. | Each of 523,499 residential and 61,505 small business and municipal customers participated in the program. | Total IPC expenditure (and customer savings) of $6.2 million. |

## B. Large Customer Electricity Conservation Pricing Experiment

### 1. Program Summary

On July 24, 1998, two days after IPC filed a notice describing its intention to reduce rates to smaller-use customers, IPC filed a notice with the Commission describing its plans to implement an program for large commercial and industrial customers.

This program has the purpose of helping IPC to assess whether customers not already taking service under interruptible or real-time pricing tariffs will reduce electric demand "in sufficient quantity to aid in system operation", in return for a bill credit. The program was voluntary, and was terminated on September 30, 1998.

### 2. Program Progress, Participation and Effects

IPC did not need the use of the procedures described in this experiment. Had the procedures been necessary, and the response been as expected, the experimental program would have assisted IPC in maintaining system reliability.

| LARGE CUSTOMER ELECTRICITY CONSERVATION PRICING EXPERIMENT | | | | |
|---|---|---|---|---|
| **Program Type / Effective Dates** | **Program Objectives** | **Participation Incentives** | **Program Results** | **Program Expenditures** |
| Pricing program began 7/24/98 and ended 9/30/98. | Load reduction during critical periods. | Payment per kW of load reduced. | 3 of 239 eligible commercial and 26 of 739 eligible industrial customers with total cumulative demand of 145 MW; since program never used, no actual figures are available. | $3,000 IPC program costs and $3,000 total customer costs (program was not implemented so there were no program savings). |

## V. Conclusion

This Report has examined the seven experimental programs initiated by Illinois electric utilities under Section 16-106 of the Act. ComEd and IPC, the only two utilities filing Section 16-106 programs, have used the discretion afforded by Section 16-106 to offer two types of experimental programs. Both utilities initiated programs in response to summer reliability problems (ComEd's Load Curtailment and Generated Energy Procurement Pricing Experiments and IPC's Small Customer Appreciation and Large Customer Electricity Conservation Pricing Experiments). ComEd also initiated programs targeted at selected customer groups (the Consolidated Billing, Affinity Group Billing and Student Power 2000 Power Pricing Experiments). In the Conclusion of this Report, the Commission presents comments about issues relevant to the Section 16-106 programs.

### A. Potential Effects of These Programs on Open Access

The Commission is concerned about the application of these so-called "experiments" to services that have elements of natural monopoly such as transmission and distribution services. The General Assembly has made it clear that "delivery services" shall be regulated in a manner similar to traditional regulation. This includes the prohibition on providing those services in an unduly discriminatory manner. There are sound theoretical reasons why monopoly services, which can only be provided by the incumbent utility, are required by law to remain regulated. In order for an alternative supplier to provide a final product, it (or its customers) will be required to obtain the monopoly transmission and distribution services from the incumbent utility under its "delivery services" tariff. These basic essential services can not generally be duplicated cost-effectively by an alternative supplier. As a result, alternative suppliers' customers will be forced to obtain delivery services under regulated rates, terms and conditions. However, Section 16-106 not only allows pricing flexibility for the incumbent, but explicitly provides that such services "shall not create any right in any other retail customer or group of customers to participate in the same or a similar program." This explicit condoning of discrimination provides the incumbent utility with the ability to provide services, that would normally be regulated monopoly services, at unregulated prices, terms and conditions. An alternative supplier does not have such flexibility. These programs could be used as a means to compete against alternative suppliers on terms that the incumbent knows a competitor cannot meet. Although any revenue losses experienced by the utility can not be used to justify a rate increase under Section 16-111, this flexibility may be used as a tool to unduly under price competitors. This problem will not manifest itself until after customers are allowed to seek alternative suppliers.

### B. Effect on the rates of customers not participating in the experimental programs

Each of the seven programs under Section 16-106 have offered rate discounts to the typically small group of customers participating in the programs (an exception is IPC's Small Customer Appreciation Pricing Experiment, in which entire customer classes received a temporary rate discount). For most programs, the discounts have ranged from about 5% to 15%. These discounts likely will not have an impact on the future electric rates by customers not participating in the programs because of provisions in the Act which allow the Commission when it sets base electric rates to exclude the expenditures on experimental programs undertaken pursuant to Section 16-106.[13]

### C. Costs and benefits of the experimental programs

#### 1. ComEd's and IPC's load curtailment programs

The offering of rate discounts gives rise to the question of whether the rate discounts are commensurate with the expected benefits of the programs; that is, whether the discounts offered to eligible customers are such that the discount encouraged maximum participation while minimizing costs. For the load curtailment programs initiated by ComEd and IPC, the Commission has no reason to believe that the temporary rate discounts associated with the programs were high compared to the expected benefits that would be derived from the preservation of reliability. As discussed below, the Commission is more doubtful that two of the three programs not concerned with load curtailment are (or will be, since the programs are ongoing) cost-beneficial.

#### 2. The Consolidated Billing, Affinity Group Billing and Student Power 2000 Pricing Experiments

##### a) The Consolidated Billing Experiment

ComEd has not yet made a judgment as to whether the costs of the Consolidated Billing Experiment are commensurate with the benefits that have been and will be achieved

[13] See Section 16-111(d).

from the program.[14] In its investigation of the Rider CB program, the Commission found that the informational benefits achievable through the program justified the continued existence of the program.[15] Since the purpose of the Consolidated Billing Experiment is the same as the purpose of Rider CB, the Commission believes that the relatively small (approximately 5%) discount given to participating customers is probably not excessive in relation to the benefits of the program.

#### b) Student Power 2000 Pricing Experiment

The discount provided to the 3,400 school districts is about 10%. In return for providing the discount, it appears that the only benefits that ComEd will receive is information that will be useful to ComEd when the school districts are eligible to purchase power from the suppliers other than ComEd. The Commission therefore is doubtful that the benefits of the Student Power 2000 Pricing Experiment are or will be equal to the benefits achievable from the program.

#### c) The Affinity Group Billing Experiment

While there may be short-term benefits related to reliability, the primary future benefits that ComEd may obtain from the Affinity program are mainly marketing advantages. Through the Affinity program ComEd will learn whether, and to what extent, certain commercial customers are willing to consider seriously accepting an offer of a discounted electric rate. The Commission is doubtful that such information, while useful, is worth its acquisition cost.

## D. Are the experimental programs "experiments"?

A question that naturally arises when a utility implements an experimental program is whether the programs is "experimental", as that term is used in Section 16-106. Or, put another way, the question is whether the experiments initiated by ComEd and IPC were the type of programs contemplated by Section 16-106.

### 1. Load Curtailment Programs

The load curtailment programs do not seem to be the type of programs envisioned by Section 16-106. While the programs served a useful and important public purpose, the Commission believes that the programs are "experimental" only in the very loose sense of the word. Rather than experiments, as one would ordinarily use that term, the programs were apparently implemented as a convenient means to address the serious problem of ensuring a reliable amount of electric supply during the summer of 1998. To the extent that the reliability problems are less serious during 1999, the Commission does not expect that electric utilities will initiate load curtailment programs during 1999.

[14] ComEd Report on Pricing and Billing Experiments, p. II.2.8.
[15] Commission Order, Docket 96-0485, p. 34.

### 2. The Consolidated Billing, Affinity Group Billing and Student Power 2000 Pricing Experiments

In its investigation of Rider CB the Commission found that the Rider CB program would provide useful information, even though the experimental procedure used in the program may not be the procedure typically used in scientific experiments. The Commission has the same conclusion about the Consolidated Billing Experiment, the successor to Rider CB. With respect to the other two ComEd programs not concerned with load curtailment, the Commission is doubtful that the programs would qualify even under the broadest use of the term "experiment".

## E. Effects on competition

### 1. The Load Curtailment Programs

In determining whether there may be harmful effects on competition from an experimental program, one should consider the effect of the program on two markets. One market is the market in which the customers participating in the programs sell products. The second market is the electricity market in which customers currently participating in experimental programs are customers.

There should be negligible, if any, effect on competition from the implementation of the load curtailment programs. One concern in this area could be that the programs could be used to offer discounted rates to selected customers, but this does not appear to have occurred.

Had the programs resulted in ongoing rate discounts, one might also be concerned about the long-term effects on competition, but the programs offered only short-term rate discounts. One could also argue that the IPC Small Customer Appreciation Experiment was designed with marketing goals rather than reliability in mind, but, on the other hand, most of the customers benefiting from the program are residential customers, who will not be eligible to choose new suppliers until May 2002.

### 2. The Consolidated Billing, Affinity Group Billing and Student Power 2000 Pricing Experiments

The Commission believes that the discount obtained by customers participating in the Consolidated Billing Experiment, while fairly sizable, would not be large enough to significantly disturb the competitiveness of the markets in which participating Consolidated Billing Experiment customers sell products. The strength with which the Commission holds this opinion will diminish the longer the discount continues into the future.

The information ComEd continues to learn about the customers participating in the Consolidated Billing Experiment will help it to retain the customers when those customers are eligible to choose new suppliers. This advantage is derived from the knowledge gained from the many contacts with the customers through the program. Such knowledge may be difficult for new suppliers to obtain.

The school districts participating in the Student Power 2000 Power Pricing Experiment do not compete against other school districts. However, the knowledge gained from the program may assist ComEd in retaining the school districts as customers when the school districts are eligible to choose new suppliers. On the other hand, the fact that ComEd has a marketing advantage over other suppliers in the school district market will be unlikely to discourage rival suppliers from entering the Illinois electric market.

The discounts associated with the Affinity program provide a benefit to the customers participating in the program, a benefit that will increase in significance as the discount continues into the future. While the program has an initial three-year term, it is not clear to the Commission whether the program may be terminated only if both parties agree, or whether the program will continue unless both parties agree that the program should be terminated. If the program does end after three years, the disturbance to the markets in which IRMA customers compete will be relatively minor. However, if the program continues until IRMA prefers to terminate the program, the approximately 15% discount associated with the program could be available to IRMA customers well after the customers are eligible to choose new suppliers. If it turns out that commercial customers not participating in the program cannot achieve a 15% reduction in their electric bills, then the IRMA customers will have a persistent and sizable advantage over non-participating customers into the future, which could well be detrimental to the markets in which IRMA customers compete.

The answer to the question of whether the discount provided to IRMA customers in the Affinity program is sufficient to deter other suppliers from attempting to compete with ComEd for electric sales to IRMA members depends on the length of the program. If the program lasts longer than three years, which would mean that that the 15% discount is a standing offer to IRMA members which would be compared to offers from other suppliers, then the competition for sales to IRMA members could be severely dampened.

### F. Recommendations for ongoing Section 16-106 programs

Section 16-106 states that the Commission may offer recommendations for modifications of Section 16-106 programs. In light of the potential problem that utilities may discriminate through price and non-price means in the provision of monopoly services, the Commission recommends that the General Assembly consider requiring utilities that offer Section 16-106 programs to customers or customer classes eligible for delivery services, to provide the "delivery services" portion of such programs under the same terms, conditions and rates as the applicable delivery services tariff. There are three underlying reason for this recommendation. First, this approach would further the cause of promoting competition in the Illinois energy services market which is the stated intention of the Act as indicated in Section 16-

101A(d). By eliminating the ability of a utility to act in a potentially anti-competitive manner, the General Assembly can be confident that the flexibility that is provided to the incumbent under Section 16-106 will not impair the burgeoning competitive market. Second, this solution comports with the General Assembly's intention that "delivery services shall not be a contract service until such a service is declared competitive." 220 ILCS 5/16-102. Last, while the Commission recognizes that a utility could "lock-in" a customer group prior to that group becoming eligible for open access, there appears to be some reluctance on the part of customers to join these programs. The Commission is more concerned that these programs could be misused as a last-ditch defensive move on the part of the incumbents rather than a general pricing practice. Thus it would be appropriate to apply this recommendation to Section 16-106 programs that extend beyond the date at which a customer becomes eligible for open access.

The Commission specifically notes that this recommendation applies solely to programs under Section 16-106 as currently understood by the Commission and must not be interpreted to reflect any determination by the Commission about its authority to require a utility to provide bundled energy services to its own customers using the applicable delivery services tariffs.